

REMARKS

Claims 1-30 were previously pending in this application. By this amendment, claims 1-4 and 29-30 have been amended. As a result claims 1-30 are pending for examination with claim 1 being independent. No new matter has been added.

Applicants acknowledge the Examiner's finding that claims 3, 13, 14, 21-24, 29 and 30 are allowed.

Rejections Under 35 U.S.C. §103

Claims 1, 2, 4-12, 15-20, and 25-28 under 35 U.S.C. §103(a) stand rejected as being unpatentable over Haener (U.S. Patent No. 4,640,071) in view of Mullins (U.S. Patent No. 4,107,844).

It is pointed out in the Office Action that Haener '071 does not disclose a half block having a length up to half the length of stretcher and corner blocks. To cure this deficiency, it is contended that the Mullins reference would motivate one of ordinary skill in the art at the time of the invention to make block 20a of Haener '071 half the length of block 20 of Haener '071. According to the Office Action, one of ordinary skill in the art would be motivated to make such a modification because it would facilitate the framing of wall openings, terminating walls, construction pillars and the like, and for aesthetic reasons.

No Motivation to Combine References

No motivation to combine the relative block size teachings of Mullins with block 20a (FIG. 9) of Haener '071 exists in the two cited references. The teaching in Mullins of four different sizes of blocks in no way would motivate one of skill in the art to make block 20a of Haener '071 up to half the length of block 20 (FIG. 1). Block 20a (FIG. 9) of Haener '071 is a separate embodiment from block 20 (FIG. 1) in that two transverse support webs are included rather than four. Block 20a is not used with block 20 to form a wall and thus the ratio of the size of block 20a to the size of block 20 is irrelevant to the invention of the Haener '071 reference. Furthermore, a short block 20" is shown in FIG. 5 to be used with block 20 (FIG. 1) at the terminal end of a wall assembly (See FIG. 7 and column 5, lines 4-14), obviating any need for a version of block 20a which has a defined ratio of length relative to block 20. It is not clear that

block 20a, modified to be up to one half the length of block 20, would even be able to work with the block 20 embodiment due to the different number of transverse webs.

In short, there is no teaching or suggestion in either reference that provides incentive to make the block 20a embodiment be up to half the length of the block 20 embodiment.

Even if Combined, References Do Not Teach Every Element of Claimed Invention

For the sake of argument only, even if one assumes that motivation exists to modify the Haener '071 reference in the manner specified in the Office Action, the resulting block would not contain each and every claim limitation of the pending claims. The block 20a embodiment, regardless of length, is not used in a wall assembly with block 20 and block 20' – the two blocks asserted as a stretcher block and a corner block in the Office Action. Block 20a, having two transverse webs, is shown in a wall assembly in FIG. 11 with other similar blocks 20a. A block 20b, having three transverse webs, is shown in FIG. 14 with other blocks 20b. Numerous blocks 20 and 20' are shown in FIG. 7, along with short block 20", forming a wall 90. As such, the only wall assembly taught in Haener '071 in which three different block configurations are provided is shown in FIG. 7, and this wall assembly embodiment does not include a half block having a first transverse end wall and a second transverse end wall as recited in amended claim 1. Accordingly, withdrawal of the rejections of claim 1 and dependent claims 2, 4-12, 15-20 and 25-28 is respectfully requested.

Amendments

Amendments have been made to claims 1-4 and 29-30 to further clarify the invention and to remove reference numerals. No new matter has been added. The application is believed to be in condition for allowance.

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CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's agent at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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